



May 24, 2021

Deena Fox  
U.S. Department of Justice, Civil Rights Division  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

**Re: Surjit Singh (Sikh Prisoner), ADCRR #344729**

Dear Ms. Fox,

We are attorneys with the Sikh Coalition,<sup>1</sup> the American Civil Liberties Union of Arizona (“ACLU of Arizona”), the ACLU Program on Freedom of Religion and Belief (“PFRB”), the ACLU National Prison Project (“NPP”),<sup>2</sup> and WilmerHale LLP<sup>3</sup> (collectively, “Counsel”). We are writing to file a formal complaint on behalf of our client, Surjit Singh, a 64-year-old observant Sikh who is currently incarcerated at the Whetstone Unit in Tucson, which is operated by the Arizona Department of Corrections, Rehabilitation and Reentry (“ADCRR”).<sup>4</sup> Mr. Singh’s religious-freedom rights were infringed last year when ADCRR officials forcibly shaved his religiously mandated beard. He has also been denied access to interpretation and other language assistance services even though he is a native Punjabi speaker with very limited English proficiency. Unless the DOJ investigates the ADCRR for this misconduct and takes immediate enforcement action, other ADCRR prisoners will suffer similar violations of their rights.

In accordance with his Sikh faith, Mr. Singh sincerely believes that he must wear a turban and refrain from cutting any of his hair, including facial hair. Upon his incarceration on August

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<sup>1</sup> By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, promotes local community empowerment, and fosters civic engagement among Sikh Americans. The Sikh Coalition owes its existence in large part to the effort to combat uninformed discrimination against Sikh Americans after September 11, 2001. Since our inception, we have worked with governmental and private entities to achieve mutually acceptable accommodations for Sikh articles of faith, as well as to provide cultural competence about the Sikh religion.

<sup>2</sup> The ACLU of Arizona is a state-wide nonpartisan organization and a state affiliate of the national American Civil Liberties Union, which is home to PFRB and NPP. The ACLU of Arizona, PFRB, and NPP are dedicated to protecting the constitutional principles of liberty and equality. Among many avenues of work, they strive to ensure that prisons, jails and other places of detention comply with the Constitution, domestic law, and international human rights principles, including the right to religious freedom.

<sup>3</sup> WilmerHale is a leading, full-service international law firm with 1,000 lawyers located throughout 13 offices in the United States, Europe, and Asia. WilmerHale believes that its lawyers have special obligations to the administration of justice and the development of the law, which is why the firm is also a national leader in pro bono services and charitable activities and encourages its lawyers to write and speak on legal issues and to participate in the affairs of their larger communities.

<sup>4</sup> Counsel have received permission from Mr. Singh to file this complaint on his behalf.

21, 2020, however, his turban was confiscated at the Yuma County Jail in Arizona. He was then transferred to ADCRR’s Alhambra Reception Center (the “Alhambra Facility”), where corrections officers handcuffed, physically restrained, and—over a period of hours—forcibly shaved his beard despite his repeated objections. The forced shaving took place in accordance with the ADCRR’s policy requiring prisoners to be clean-shaven for intake photos.<sup>5</sup> Prior to this egregious incident, Mr. Singh had *never* before cut, shaved, trimmed, or otherwise removed his hair. The incident caused him deep shame and mental trauma, including severe depression.

Even after his intake, ADCRR officials did not stop harassing Mr. Singh over his religious practices. On October 6, 2020, following his transfer to the Arizona State Prison Complex – Douglas (the “Douglas Facility”), prison staff tried to shave Mr. Singh’s facial hair *a second time* because it had grown out beyond the one inch allowed by the ADCRR policy.<sup>6</sup> After Mr. Singh refused on religious grounds, and despite the fact that he was already represented by Counsel on these matters, staff told Mr. Singh that he would have to either shave himself or be forcibly shaved. Staff only relented after Counsel once again intervened. The Religious Land Use and Institutionalized Persons Act (RLUIPA)<sup>7</sup> prohibits enforcement of these policies against prisoners like Mr. Singh—whose sincere religious beliefs forbid shaving—yet neither the ADCRR’s intake photo policy nor its policy restricting beards to one inch thereafter provide for religious accommodations.

Further, ADCRR officials have repeatedly failed to provide Mr. Singh—who was born in India and is a native Punjabi speaker with extremely limited English proficiency—the required language assistance under Inmate Regulation 16<sup>8</sup> and Title VI of the Civil Rights Act of 1964.<sup>9</sup> They have never offered him a Punjabi interpreter and have failed to translate key documents, such as the ADCRR’s written policies and grievance procedures, into Punjabi. They have also failed to provide him with other vital documents, including translated grievance forms and a translated copy of the prisoner handbook, despite repeated requests from Counsel. Indeed, the ADCRR appears to have no process through which prisoners with limited English proficiency can request interpreters or documents in a language they understand. These failures further deprive Mr. Singh and other prisoners with limited English proficiency of any meaningful opportunity to navigate the prison process or to make basic requests. For example, Mr. Singh did not know that he needed to make a special request to wear a turban or to receive a vegetarian diet in accordance with his sincerely held religious beliefs, and he did not understand how to properly file a grievance.<sup>10</sup>

Despite these egregious violations of Mr. Singh’s rights, ADCRR officials have refused to take the necessary steps to ensure that similar forcible shaving incidents never happen again. On the contrary, they have continued to downplay what happened to Mr. Singh as a mere “miscommunication.”<sup>11</sup> It was not. Such “miscommunications” will undoubtedly continue in

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<sup>5</sup> Department Order Manual, Arizona Department of Corrections Rehabilitation and Reentry, Department Order 704 - Inmate Regulations, Rule 2.3.1 (eff. May 5, 2020) (“Inmate Regulations”).

<sup>6</sup> *Id.* at Rule 2.3.

<sup>7</sup> 42 U.S.C. § 2000cc *et seq* (2000).

<sup>8</sup> *Supra* note 5.

<sup>9</sup> 42 U.S.C. § 2000e *et seq* (1964).

<sup>10</sup> After confiscating Mr. Singh’s turban during intake, ADCRR officials did not provide a replacement turban until several months later, and only after Counsel intervened and arranged for turban material to be sent to him.

<sup>11</sup> Exhibit 1.

ADCRR facilities because the rules requiring prisoners to be clean-shaven at intake and prohibiting beards in excess of one inch thereafter contain no exception for religious objectors. Nor is there any identifiable process within the ADCRR's regulations that affords prisoners a means of requesting and obtaining religious accommodations to these policies. And ADCRR officials have been unresponsive to Counsel's requests that they establish an accommodation policy and process.<sup>12</sup> As a result, the ADCRR will no doubt continue to enforce these policies, and an untold number of current and future ADCRR prisoners—who lack the means to hire counsel to demand a religious accommodation on their behalf or are otherwise unable to do so before intake—will suffer the same violation of their rights that Mr. Singh has endured.

Because ADCRR officials have refused to acknowledge the grave harms inflicted by their misconduct and have declined to enact safeguards to prevent repeat violations in the future, we respectfully request that the DOJ investigate the ADCRR for (1) its failure to provide religious accommodations to its policy requiring all prisoners be clean-shaven for intake identification photos; (2) its failure to implement a policy by which prisoners may request and obtain religious accommodations to the prohibition against beards in excess of one inch subsequent to the intake process; and (3) its failure to provide adequate language access accommodations for prisoners with limited English proficiency. The DOJ's intervention is critical to ensure that the ADCRR amends its policies and practices to protect all incarcerated individuals' religious-freedom and language-access rights. Absent the DOJ's intervention, many of these issues are likely to evade formal review as the ADCRR's conduct renders the majority of prisoners ill-equipped to understand their rights and represent themselves in these matters.

## I. SIKHISM AND THE ARTICLES OF FAITH

Mr. Singh is a member of the Sikh faith, the world's fifth largest organized religion. There are approximately 26 million Sikhs worldwide, and over 500,000 Sikhs reside in the United States. The Sikh religion is monotheistic, believing in a divine spirit that is all loving, all pervading, and eternal. Central tenets of the faith include devotion to God, truthful living, and service to humanity.

Sikhs wear an external uniform to unify and bind them to the beliefs of the religion and to remind them of their commitment to Sikh teachings at all times. These articles of faith distinguish a Sikh from non-Sikhs and have deep spiritual and religious significance. They signify an individual's commitment to the Sikh faith and to the highest ideals of love and service to humanity. All initiated Sikhs are required to wear external articles of faith. The Sikh Code of Conduct, called the *Rehat Maryada*, outlines the requirements for practicing the Sikh way of life, including wearing the articles of faith. The *Rehat Maryada* explicitly instructs that observant Sikhs must wear a turban over their unshorn, uncut hair.<sup>13</sup> Of the five articles of faith, the most commonly maintained article is unshorn hair (*kesh*) covered by a turban.<sup>14</sup>

It is important to note that observant Sikhs do not cut, shave, trim, or otherwise remove any hair on their bodies, including facial hair. Maintaining *kesh* unshorn is rooted in the Sikh belief

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<sup>12</sup> Exhibit 2.

<sup>13</sup> See, W. H. McLeod, *Textual Sources for the Study of Sikhism*, at Ch. 10, Art.16(t), Manchester University Press, 1984.

<sup>14</sup> See Exhibit 3 (literature about Sikhs and the articles of faith).

that hair is a divine gift. Thus, maintaining hair unshorn is considered living in harmony with the will of God. Indeed, the *Rehat Maryada* explicitly forbids cutting or shaving any body hair, as doing so weakens a Sikh's connection to God and to the Sikh religious community. In short, maintaining uncut hair is an essential part of the Sikh way of life.

Sikhs also consider the turban to be a precious gift from their Guru, and many wash their hands before they begin to tie it. Unlike a hat, a turban must always cover a Sikh's head. The turban reminds a Sikh of their duty to maintain and uphold the core beliefs of the Sikh faith, which include working hard and honestly, sharing with the needy, and promoting the equality of all humankind. When a Sikh ties a turban, the turban ceases to be just a piece of cloth and becomes one and the same with the Sikh's head. It is a religious commitment without which a Sikh may feel that they have ceased to be a Sikh.

Historically, uncut hair and turbans have been the most central feature of the Sikh identity. For example, in the 18th century, Sikhs in South Asia were persecuted and forced to convert from their religion. The method of forcing conversions was to remove a Sikh's turban and cut off their hair. Since then, forcibly removing or targeting a Sikh's turban or facial hair has symbolized denying that person the right to belong to the Sikh faith and is commonly perceived as the most humiliating and hurtful physical injury that can be inflicted upon a Sikh.

## **II. FACTUAL BACKGROUND**

Mr. Singh was taken into custody on August 21, 2020, following his sentencing to a five-year prison term. Immediately beforehand, he informed the court interpreter that his religious beliefs prevented him from removing his turban. The interpreter informed corrections staff who told him that they would talk with their supervisor about Mr. Singh's request. Despite this conversation, Mr. Singh's clothes and turban were removed at the Yuma County Jail, and the turban was never returned to him. Mr. Singh was subsequently transferred first to the ADCRR's Alhambra Facility on August 25, 2020, for intake and processing and then to the Douglas Facility several days later.

While at the Alhambra Facility, Mr. Singh saw fellow prisoners being shaved for identification photos. When it was his turn to be shaved, he immediately advised corrections staff, including a Correctional Officer ("CO") named Pat, that he could not shave his beard because of his religious beliefs. Thereafter, he was placed in a cell. Another staff member arrived and again informed Mr. Singh that his beard needed to be shaved. Mr. Singh again refused, saying that he could tie his beard instead, but corrections staff insisted that his beard be removed in accordance with the ADCRR's rules. Finally, a third corrections officer arrived, and Mr. Singh asked for an interpreter. While he was not provided with a certified Punjabi interpreter, a staff member of South Asian descent working in the medical department was present and spoke to Mr. Singh in Hindi. Importantly, while Punjabi and Hindi have some linguistic similarities, they are, in fact, two distinct languages.

Mr. Singh informed the medical department staff member that he practices the Sikh faith and does not cut or shave his beard. The staff member acknowledged being familiar with Sikhism and told the COs that Mr. Singh was a Sikh, that this would be the first time his beard would be

cut or shaved, and that he did not want his beard removed in accordance with his religious beliefs. However, neither this staff member nor the COs assisted Mr. Singh in any manner to ensure that his religious beliefs were respected or to inform him of any religious accommodations available to avoid shaving for the intake photo.

Over the course of several hours, Mr. Singh complained about this process<sup>15</sup> and advised each staff member he encountered that his religious beliefs prohibited him from shaving his beard, but his religious objections were ignored. At one point, Mr. Singh became distraught and implored the medical staff member to “cut my throat, but don’t cut my beard!” The COs eventually handcuffed and surrounded Mr. Singh, who began to cry and moved his head to avoid having his beard cut and shaved. Despite his consistent verbal complaints, objections, and clear signs of distress, his beard was forcibly removed by Alhambra corrections officers. Both Mr. Singh and Counsel complained verbally and in writing about this incident and exhausted the available grievance process.<sup>16</sup>

More than a month after Counsel complained to the ADCRR, Gerard Thompson, warden of the Douglas Facility responded and apologized for the purported “miscommunication” that took place between the chaplain and security staff regarding the Alhambra Facility forced shaving incident and gave assurances that Mr. Singh would not be shaved while he remained at the Douglas facility.<sup>17</sup> But even as Warden Thompson offered these assurances, Counsel were informed by an ADCRR chaplain that matters of shaving—even for religious purposes—fall outside of the chaplaincy purview and are, instead, matters to be decided exclusively by prison security staff. However, neither the chaplain nor Warden Thompson could point to an accommodation policy to clarify either position. Given the conflicting information provided by ADCRR officials regarding the availability of a religious accommodation to the intake policies and rule prohibiting beards in excess of one inch thereafter, Counsel sought additional clarity as to whether Mr. Singh’s religious accommodations would last for the duration of his incarceration and follow him if he were transferred to another ADCRR facility.<sup>18</sup> The ADCRR did not respond, and, in fact, Counsel had to once again intervene to ensure that Mr. Singh’s accommodations applied when he was transferred to Tucson’s Whetstone Unit in November 2020.<sup>19</sup>

In reality, neither the ADCRR rules nor the prisoner handbook identify a religious accommodation policy or process regarding facial hair at either the intake facilities or in the main assignment facilities. In the event a policy does exist, it is clear that prisoners do not have access to it. And ADCRR staff, who are best positioned to safeguard prisoners’ religious rights, do not understand how to seek or administer a religious accommodation when a prisoner is required to shave or trim their facial hair, resulting in potential religious rights violations for numerous individuals.

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<sup>15</sup> See Department Order Manual, Arizona Department of Corrections Rehabilitation and Reentry, Department Order 802 - Inmate Grievance Procedure, Rule 2.1 (eff. Oct. 16, 2016) (providing that “[i]nmates shall attempt to resolve their complaints through informal means including, but not limited to, discussion with staff in the area most responsible for the complaint . . .”).

<sup>16</sup> Exhibit 4.

<sup>17</sup> See Exhibit 1.

<sup>18</sup> Exhibit 5.

<sup>19</sup> Exhibit 6.

### III. THE ADCRR'S RELIGIOUS-FREEDOM VIOLATIONS

Pursuant to Inmate Regulations Rule 2.3.1, “[a]ll inmates coming through any intake process at designated Department Reception Centers shall be required to shave any facial hair to facilitate a clean picture for the Mug Photo Interface Subsystem.”<sup>20</sup> After this initial processing, the ADCRR allows prisoners to maintain beards limited to one inch in length.<sup>21</sup> While medical waivers may be issued if a prisoner suffers from Pseudofolliculitis Barbae,<sup>22</sup> the ADCRR does not provide religious exemptions to either policy.

The ADCRR’s policies of forcibly shaving prisoners during the intake photo process and prohibiting beard lengths in excess of one inch thereafter—without providing religious exemptions—violate Mr. Singh’s religious rights under RLUIPA, as well as the rights of all prisoners of faith who adhere to similar religious practices. There is no question that Mr. Singh’s sincerely held religious beliefs require him to maintain unshorn hair. That requirement extends to his facial hair and is a central tenet of his Sikh faith. In accordance with his religious beliefs, Mr. Singh had *never* cut, trimmed, shaved, or otherwise removed any hair from his body before entering the ADCRR prison system, where his facial hair was forcibly removed for the first time in his life.

In forcibly shaving Mr. Singh’s beard, the ADCRR substantially burdened Mr. Singh’s religious exercise by imposing “significant pressure [on him] . . . to abandon [his] religious beliefs.”<sup>23</sup> To justify this imposition under RLUIPA, the ADCRR had to demonstrate that denying an exemption to Mr. Singh, in particular, was the least restrictive means of furthering a compelling interest.<sup>24</sup> The ADCRR simply did not meet this “rigorous standard” here and, indeed, is unlikely to meet it with respect to any prisoner who maintains facial hair as a religious practice.<sup>25</sup>

As in *Holt v. Hobbs*, the ADCRR’s policy provides no religious exception to its requirement that prisoners be clean-shaven for their identification photos at intake, even though it does provide a medical waiver.<sup>26</sup> Where a medical waiver exists, and where there would have been no harm to third parties from granting a similar accommodation for Mr. Singh’s religious beliefs,

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<sup>20</sup> Inmate Regulations Rule 2.3.1.

<sup>21</sup> *Id.* at Rule 2.3.

<sup>22</sup> *Id.* at Rule 2.4.

<sup>23</sup> See *Warsoldier v. Woodford*, 418 F.3d 989, 996 (9th Cir. 2005) (holding that policy requiring Native American prisoner to cut and maintain his hair no longer than three inches violated RLUIPA); see also *Hundal v. Lackner*, No. EDCV 08-00543-CAS MA, 2011 WL 1935734, at \*6 (C.D. Cal. Apr. 12, 2011), *report and recommendation adopted*, No. EDCV 08-00543-CAS, 2011 WL 1979044 (C.D. Cal. May 20, 2011) (denying motion to dismiss where Sikh prisoner alleged that rule limiting beards to a half-inch violated RLUIPA).

<sup>24</sup> *Holt v. Hobbs*, 574 U.S. 352, 362–63 (2015) (“RLUIPA . . . contemplates a more focused inquiry and requires the Government to demonstrate that the compelling interest test is satisfied through application of the challenged law *to the person*—the particular claimant whose sincere exercise of religion is being substantially burdened.”) (emphasis added) (internal quotation marks omitted).

<sup>25</sup> See *id.* at 364. The government’s burden under RLUIPA is heavy. Courts examining denials of religious accommodations for prisoners may not give “unquestioning deference” to prison officials who make unsupported, generalized assertions about the prison’s security interests. *Id.* And “[t]he least-restrictive-means standard is exceptionally demanding,” requiring a prison to “sho[w] that it lacks other means of achieving its desired goal without imposing a substantial burden on the exercise of religion by the objecting part[y].” *Id.* (internal quotation marks omitted). Prison officials are *required* to use a less restrictive means if one is available. *Id.* at 365.

<sup>26</sup> *Id.* at 368.

the ADCRR had no need to forcibly shave him.<sup>27</sup> On the contrary, a photograph depicting Mr. Singh without his facial hair runs counter to the prison's identification interests: it will not produce an image that makes Mr. Singh easily identifiable, as he will not remain clean-shaven moving forward. Thus, the ADCRR's blanket policy in this respect actually *hinders* its staff from identifying prisoners who, for religious or other reasons, maintain facial hair. Allowing Mr. Singh to keep his facial hair in accordance with his religious beliefs would make him substantially easier to identify.

Moreover, forcibly shaving Mr. Singh for a photograph was not the least restrictive means of obtaining a clean-shaven image of him. Rather, thanks to the advancement in computer technology, computer programs can easily provide the ADCRR with a clean-shaven computer-generated image of prisoners like Mr. Singh, whose religious beliefs and medical conditions prevent them from shaving.<sup>28</sup>

So, too, the ADCRR's policy prohibiting prisoners from maintaining beards in excess of one inch, without exceptions for religious facial hair, runs afoul of RLUIPA. Notably, the ADCRR allows prisoners to maintain long hair on their heads, the only restrictions being that the hair not cover the eyes or ears and that hair long enough to touch the shoulders be tied back in a ponytail or bun.<sup>29</sup> Like in *Holt*, the ADCRR's beard policy is underinclusive, as there is limited value in prohibiting prisoners from maintaining religiously mandated beards given that there are much more plausible places to hide contraband (*e.g.*, in the hair on a prisoner's head or in a prisoner's clothes and shoes, etc.), and any safety concerns related to the length of facial hair would apply equally to the hair on prisoners' heads.<sup>30</sup> Yet, prisoners within the ADCRR are not required to go barefoot, naked, or bald. On the contrary, long hair is allowed, and no length restriction exists.

What is more, other prison systems, including the Federal Bureau of Prisons, allow prisoners to grow beards without limitation in length, for both religious and nonreligious reasons.<sup>31</sup> As the Supreme Court explained in *Holt*, “[w]hile not necessarily controlling, the policies followed at other well-run institutions would be relevant to a determination of the need for a particular type of restriction.”<sup>32</sup> Here, the practices of these other prisons make clear that the ADCRR's goals, whatever they may be, can be achieved through the use of means that burden prisoners' religious practice to a far lesser degree. For instance, the ADCRR could ask prisoners to comb through their facial hair, have it inspected by staff to address any security concerns, or tie their beards—similar to the policy for prisoners who maintain long hair on their heads.

Though these policies plainly violate RLUIPA, they are the sort of policies that remain difficult to meaningfully challenge in judicial proceedings, especially the policy requiring that

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<sup>27</sup> *Cf. Couch v. Jabe*, 679 F.3d 197, 204 (4th Cir. 2012) (vacating summary judgment in favor of prison, in part, because officials “fail[ed] to explain how the prison is able to deal with the beards of medically exempt inmates but could not similarly accommodate religious exemptions”).

<sup>28</sup> *See Helbrans v. Coombe*, 890 F. Supp. 227 (S.D.N.Y. 1995) (New York State Department of Corrections accepted a computer-generated image of a prisoner's clean-shaven face).

<sup>29</sup> Inmate Regulations, *supra* note 4, Rules 1.1 and 1.3.

<sup>30</sup> *Holt*, 574 U.S. at 367-68.

<sup>31</sup> *See generally* Program Statement 5230.05, Grooming, U.S. Dep't of Justice, Bureau of Prisons (Nov. 4, 1996).

<sup>32</sup> *Holt*, 574 U.S. at 368 (internal quotation marks omitted). *See also Warsoldier v. Woodford*, 418 F.3d at 996, (finding that a prison policy limiting hair length likely violated a Native American prisoner's rights under RLUIPA).

prisoners be clean-shaven at intake. Under the Prison Litigation Reform Act of 1995 (“PLRA”),<sup>33</sup> “exhaustion of available administrative remedies is required for any suit challenging prison conditions, not just for suits under § 1983.”<sup>34</sup> As discussed above, Counsel filed a grievance on behalf of Mr. Singh, to which the ADCRR eventually responded by granting him a permanent exemption from its facial hair grooming policies. But because the ADCRR has provided him that religious accommodation, Mr. Singh may be unable to bring a lawsuit on the basis of that grievance in order to challenge the ADCRR’s grooming policies in court under RLUIPA; he no longer has a live controversy as to those rules. Although it is possible that Mr. Singh could have brought suit before he received a permanent accommodation, the case would likely have been mooted once the ADCRR relented to Counsel’s demands for a religious exemption.<sup>35</sup>

#### IV. THE ADCRR’S LANGUAGE ACCESS VIOLATIONS

Under Title VI of the Civil Rights Act of 1964, “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”<sup>36</sup> Failing to provide language assistance denies an individual a meaningful opportunity to participate in federally funded programs and is a form of national origin discrimination in violation of Title VI.<sup>37</sup> Title VI protections were extended to agencies receiving federal funds under Executive Order 13166, and the accompanying DOJ guidance, as well as ADCRR Inmate Regulations Rule 16, requires wardens and deputy wardens to provide interpreters for prisoners who need language assistance.<sup>38</sup>

The ADCRR has long been aware of Mr. Singh’s limited English proficiency and the fact that his native language is Punjabi. Nevertheless, it has failed to provide adequate language assistance, thereby denying him meaningful access to prison programs and services. For example, the only language assistance Mr. Singh received while being forcibly shaved on August 25, 2020, came from an ADCRR staff member who spoke Hindi, not Punjabi. The ADCRR has *never* provided Mr. Singh with a Punjabi-speaking interpreter; nor has it provided translated versions of vital documents, such as the prisoner handbook, rules, and procedures he is required to follow, or

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<sup>33</sup> 42 U.S.C. § 1997e(a) (1995).

<sup>34</sup> *Woodford v. Ngo*, 548 U.S. 81, 85 (2006).

<sup>35</sup> See *Pride v. Correa*, 719 F.3d 1130, 1138 (9th Cir. 2013) (a prisoner’s claim is moot when he “no longer is subjected to [the allegedly unconstitutional] policies”). Although the U.S. Supreme Court has carved out an exception to mootness doctrine for short-term conduct that is “capable of repetition, yet evading review,” *Weinstein v. Bradford*, 423 U.S. 147 (1975), some federal courts have rejected this argument as applied to particular RLUIPA claims. See, e.g., *Jones v. Davis*, No. CV-H-16-193, 2018 WL 6591582 (S.D. Tex. Dec. 13, 2018) (dismissing as moot prisoner’s challenge to religious grooming policy and annual shave requirement because prison changed the policies); *Tucker v. Livingston*, No. 6:14cv659, 2020 WL 1060347 (E.D. Tex. Mar. 4, 2020) (RLUIPA claim was moot where prison abandoned policy of limiting congregation services to recognized faith groups). And, without a named plaintiff with standing prior to certification, it would be difficult for Counsel to a bring class action to challenge the ADCRR’s policies. See, e.g., *United States v. Sanchez-Gomez*, 138 S. Ct. 1532, 1539 (2018).

<sup>36</sup> 42 U.S.C.A. § 2000d.

<sup>37</sup> *Lau v. Nichols*, 414 U.S. 563 (1974). See also *Sandoval v. Hagan*, 197 F.3d 484, 510-11 (11th Cir. 1999) (holding that English-only policy for driver’s license applications constituted national origin discrimination under Title VI), rev’d on other grounds, 532 U.S. 275 (2001); *Almendares v. Palmer*, 284 F.Supp.2d 799, 808 (N.D. Ohio 2003) (holding that allegations of failure to ensure bilingual services in a food stamp program could constitute a violation of Title VI).

<sup>38</sup> *Supra* note 5.

prison forms he must fill out to make requests for religious accommodations and physician appointments, among other things. As a result, Mr. Singh has struggled to communicate with prison staff and has been unable to effectively make requests or file grievances on his own. As illustrated by the fact that he was forcibly shaved and his difficulty in obtaining a turban,<sup>39</sup> the denial of this substantive right has affected his ability to assert other core fundamental rights. Other ADCRR prisoners with limited English proficiency are also likely being denied meaningful opportunities to participate in prison programs in violation of Title VI.

## V. CONCLUSION

The ADCRR's treatment of Mr. Singh has been nothing short of egregious. Forcibly shaving his beard, which he had previously maintained unshorn his entire life, clearly violated his rights under RLUIPA, as did threatening to shave him again after his intake in accordance with the prison's one-inch beard limitation policy. The ADCRR's failure to provide turban material to Mr. Singh in a timely manner added further insult to injury and shows how little the agency cares to adhere to its legal obligations. Further, the ADCRR's ongoing failure to provide Punjabi-translated prison policies and procedures, or to provide any meaningful language assistance to Mr. Singh, are continuing violations of his rights.

The ADCRR's facial hair policies likely violate the rights of many other prisoners in the ADCRR's custody whose faith requires them to maintain a beard. When combined with the lack of process for obtaining language assistance, these policies are particularly problematic during intake: The intake process occurs in a very short window of time, often before a prisoner has sought legal advice, and there is virtually no way for a prisoner with limited English-language skills and no translation services to easily file a grievance or obtain a response.

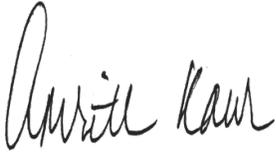
Accordingly, as set forth above, we respectfully request that the DOJ investigate these policies and their implementation. Ultimately, the DOJ should take whatever steps are necessary to ensure that the ADCRR adopts a clear, easy-to-follow religious accommodation process in connection with its facial hair policies and that these and other key policies and documents are translated for prisoners with limited English proficiency. The DOJ should also ensure that the ADCRR adopts clear processes for prisoners to request and obtain interpretive services in their native language.

We appreciate the DOJ's longstanding efforts to protect the religious-freedom rights of incarcerated individuals, as well as its concern for their access to adequate language services. Our client's experience makes clear that the DOJ's influence and resources would be well allocated in service of these ideals by focusing on the ADCRR policies highlighted in this complaint. In the meantime, we would welcome the opportunity to discuss these issues further should you have any questions or need additional information.

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<sup>39</sup> Prisoners are given the opportunity to convey their religious preferences during the intake process. In contrast to the ADCRR's facial-hair policy, the ADCRR's religious-garb policy offers prisoners an opportunity for religious accommodations, and Sikh turbans are specifically designated as approved religious attire. But, as described above, Mr. Singh was unable to fully avail himself of this accommodation process because the ADCRR failed to provide him with appropriate language services—though it is worth noting that the ADCRR inexplicably delayed providing Mr. Singh with a turban long after Counsel reiterated his accommodation request to ADCRR officials.

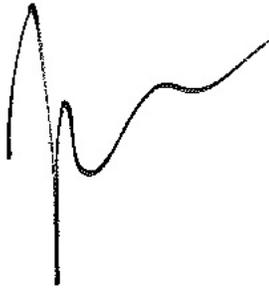
Sincerely,



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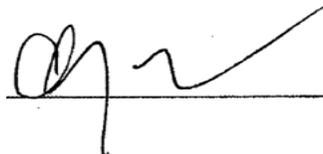
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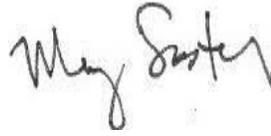
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